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Message Text

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12
ORIGIN TRSE-00

INFO OCT-01 EA-09 IO-11 ISO-00 FEA-01 AGR-10 CEA-01

CIAE-00 COME-00 DODE-00 EB-07 FRB-01 H-02 INR-07

INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-02 AID-05

CIEP-02 SS-15 STR-04 ITC-01 USIA-15 PRS-01 SP-02

OMB-01 AF-06 ARA-10 EUR-12 NEA-10 OIC-02 /155 R

DRAFTED BY TREASURY,OTP:AGAULT:DI
APPROVED BY EB/OT/GCP:SAHMAD
CUSTOMS:MHATHAWAY
STR:TGRAHAM
COMMERCE:BMILLER
---------- 104828
R 080024Z APR 76
FM SECSTATE WASHDC
TO USMISSION GENEVA
INFO AMEMBASSY SINGAPORE

UNCLAS STATE 084310

E.O. 11652: N/A

TAGS:ETRD

SUBJECT: GSP IMPLEMENTATION; "SUBSTANTIALLY TRANSFORMED"

REF: GENEVA 01902

1. THE U.S. CUSTOMS SERVICE HAS ISSUED A RULING (TD 76-100) INTERPRETING THE TERM "SUBSTANTIALLY TRANSFORMED," AS USED IN CFR PART 10, PARA 10.177 (A) (2), REGARDING GSP ELIGIBILITY FOR ARTICLES IMPORTED INTO THE U.S. FROM BENEFICIARY DEVELOPING COUNTRIES. FULL TEXT SEPTEL.

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2. SECTION 10.177 OF THE CUSTOMS REGULATIONS INTERPRETS

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THE WORDS "MATERIALS PRODUCED IN THE BENEFICIARY DEVELOPING COUNTRY" AS USED IN SECTION 503 OF THE TRADE ACT OF 1974 TO INCLUDE ONLY CONSTITUENT MATERIALS OF WHICH THE ELIGIBLE ARTICLE IS COMPOSED WHICH ARE SUBSTANTIALLY TRANSFORMED IN THE BENEFICIARY DEVELOPING COUNTRY INTO NEW AND DIFFERENT MATERIALS OR ARTICLES OF COMMERCE, OR WHICH ARE WHOLLY THE GROWTH, PRODUCT OR MANUFACTURE OF THE BENEFICIARY DEVELOPING COUNTRY.

3. ACCORDING TO THE CUSTOMS RULING, THE VALUE OF TRANSFORMED MATERIALS USED IN MANUFACTURING A BICYCLE IN A

BENEFICIARY DEVELOPING COUNTRY FOR DIRECT EXPORT TO THE U.S. WOULD BE COUNTED TOWARD THE 35 PERCENT CRITERION. IN THE EXAMPLE PRESENTED BY R. N. MARRA, THE MANUFACTURE OF BICYCLE SADDLES FROM IMPORTED RAW HIDES, CHAIN FROM IMPORTED STEEL, AND TIRES FROM IMPORTED RUBBER IN PRODUCING BICYCLES FOR EXPORT DIRECTLY TO THE U.S. WOULD ALL QUALIFY AS INSTANCES OF SUBSTANTIAL TRANSFORMATION.

4. THE CUSTOMS RULING STATES THAT QUOTE GENERALLY GOODS THAT ARE UNDEFINED IN FINAL DIMENSIONS AND SHAPES ARE CONSIDERED MATERIALS, WHILE GOODS THAT HAVE BEEN PROCESSED INTO A COMPLETED DEVICE OR CONTRIVANCE READY FOR ULTIMATE USE ARE NOT CONSIDERED MATERIALS UNQUOTE FOR THE PURPOSES OF SUBSTANTIAL TRANSFORMATION. MATERIALS THEN PROCESSED INTO CERTAIN ARTICLES MAY BE CONSIDERED SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS. HOWEVER, THE RULING STATES THAT QUOTE ARTICLES PRODUCED BY THE JOINING AND FITTING TOGETHER OF COMPONENTS ARE NOT CONSIDERED SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS UNQUOTE. CONSEQUENTLY, RAW SKINS IMPORTED INTO A BENEFICIARY DEVELOPING COUNTRY AND TANNED INTO LEATHER WOULD REPRESENT A SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS WHEN USED IN THE SUBSEQUENT MANUFACTURE OF A LEATHER COAT. HOWEVER, PARTIALLY COMPLETED COMPONENTS WHICH ARE COMPLETED AND ASSEMBLED IN THE BENEFICIARY DEVELOPING COUNTRY INTO FINISHED ARTICLES OR COMPONENTS DO NOT QUALIFY AS SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS.
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5. THE EXAMPLES PRESENTED HERE ARE ILLUSTRATIVE ONLY. MORE SPECIFIC INTERPRETATIONS OF THE TERM "MATERIALS" REGARDING SUBSTANTIAL TRANSFORMATION AND OF AN ARTICLE'S QUALIFICATION UNDER THE 35 PERCENT CRITERION SHOULD BE REQUESTED BY INTERESTED PARTIES IN ACCORDANCE WITH PART 177 OF THE CUSTOMS REGULATIONS (19 CFR PART 177).
KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, GENERALIZED PREFERENCES (TARIFFS), CUSTOMS ADMINISTRATION
Control Number: n/a
Copy: SINGLE
Draft Date: 08 APR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE084310
Document Source: CORE
Document Unique ID: 00
Drafter: AGAULT:DI
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760132-1039
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760482/aaaacsdj.tel
Line Count: 115
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN TRSE
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 GENEVA 1902
Review Action: RELEASED, APPROVED
Review Authority: MartinML
Review Comment: n/a
Review Content Flags:
Review Date: 10 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <10 JUN 2004 by SilvaL0>; APPROVED <04 JAN 2005 by MartinML>
Review Markings:

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US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: GSP IMPLEMENTATION; "SUBSTANTIALLY TRANSFORMED"
TAGS: ETRD, US
To: GENEVA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006